

1 **BEFORE THE INSURANCE COMMISSIONER**
2 **OF THE STATE OF CALIFORNIA**

3
4 In the Matter of the Licenses and Licensing
5 Rights of

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7
8 JAMES HENRY SIM,

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12
13 Respondent.
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File No. 08SD13750-AP

NOTICE OF INTENT TO REMOVE
RESPONDENT FROM HIS OFFICE AND
EMPLOYMENT WITH WESTLAND
INSURANCE BROKERS AND
PROHIBITING RESPONDENT FROM
PARTICIPATING IN ANY MANNER IN
THE CONDUCT OF THE BUSINESS OF A
PRODUCTION AGENCY

INSURANCE CODE SECTION 1748.5(b)

and,

ORDER OF IMMEDIATE PROHIBITION
FROM PARTICIPATING IN ANY MANNER
IN THE BUSINESS OF INSURANCE

INSURANCE CODE SECTION 1748.5(c)(1)

15
16 To: JAMES HENRY SIM
17

18 YOU ARE HEREBY PROHIBITED FROM PARTICIPATING IN ANY MANNER IN THE
19 BUSINESS OF INSURANCE OR IN THE BUSINESS OF ANY INSURER OR INSURANCE
20 PRODUCTION AGENCY, EFFECTIVE IMMEDIATELY, EXCEPT WITH THE PRIOR
21 CONSENT OF THE INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA.
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23 **FINDINGS**

24 Respondent, JAMES HENRY SIM (hereinafter "Respondent"), now is, and since
25 September 29, 1980 has been the holder of a license issued by the Insurance Commissioner of the
26 State of California (hereinafter "Commissioner") to act as a Fire and Casualty Broker-Agent, and
27 now is and since June 5, 1985 has been licensed by the Commissioner as a Life Agent and
28 Accident and Health Agent.

1 During all relevant times mentioned herein, Respondent was, and continues to be, a
2 “subject person” as defined by Section 1748.5(a)(2) of the California Insurance Code.

3 During all relevant times mentioned herein, Westland Insurance Brokers (hereinafter
4 “Westland”) was, and continues to be, a licensed “production agency” as defined by Section
5 1748.5(a)(1) of the California Insurance Code.

6 During all relevant times mentioned herein, Respondent was, and continues to be, a
7 controlling officer, the sole shareholder, and a natural person authorized to exercise the powers
8 and perform the duties of Westland. Respondent controls, directs, and manages the insurance
9 business of Westland and has authority to make transactions on behalf of Westland; including the
10 receipt and disposition of insurance premium and other fiduciary funds.

11 The circumstances necessitating the issuance of this Notice and Order are that,
12 Respondent, individually and on behalf of Westland, during at least the year 2008, received
13 premium funds in a fiduciary capacity and did thereafter unlawfully divert and appropriate those
14 funds to his own use or the use of Westland in an amount of not less than one million dollars
15 (\$1,000,000.)

16 The conduct set forth above constitutes misconduct with respect to the business of
17 insurance that has caused financial or other injury to insurers, insureds or other persons.

18 The conduct set forth above constitutes willful acts or omissions involving dishonesty that
19 have exposed insurers, insureds or other persons to financial or other injury.

20 The conduct set forth above demonstrates Respondent’s unfitness to continue as a subject
21 person in the business of insurance.

22 23 **DETERMINATION**

24 The Commissioner hereby gives written notice to Respondent pursuant to subdivision (b)
25 of California Insurance Code Section 1784.5 of his intention to remove Respondent from his
26 office and employment with Westland and prohibiting Respondent from participating in any
27 manner in the conduct of the business of a production agency.

28 Based upon the findings contained herein, the Commissioner finds that the failure to

1 immediately issue an order prohibiting Respondent from participating in any manner in the
2 business of insurance threatens the financial solvency of an insurer or may reasonably be
3 expected to cause irreparable injury to other persons.

4 Based upon the findings contained herein, the Commissioner finds that all of the
5 necessary factors are present which would permit the Insurance Commissioner, after notice and
6 hearing, to issue an Order pursuant to subdivision (b) of California Insurance Code Section
7 1748.5 removing Respondent from his office and employment with Westland and prohibiting
8 Respondent from participating in any manner in the business of a production agency.

9
10 NOW THEREFORE:

11 **ORDER**

12 **RESPONDENT, JAMES HENRY SIM IS HEREBY IMMEDIATELY PROHIBITED**
13 **FROM PARTICIPATING IN ANY MANNER IN THE BUSINESS OF INSURANCE**
14 **OR IN THE BUSINESS OF ANY INSURER, WESTLAND INSURANCE BROKERS**
15 **OR ANY OTHER INSURANCE PRODUCTION AGENCY, EXCEPT WITH THE**
16 **PRIOR CONSENT OF THE INSURANCE COMMISSIONER OF THE STATE OF**
17 **CALIFORNIA.**

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19 **You are further notified that, pursuant to California Insurance Code Section**
20 **1748.5(h)(2), a violation of this Order may result in civil penalties of up to one thousand**
21 **dollars (\$1,000) per day for each day that the violation continues,.**

22
23 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
24 seal, this 26th day of November, 2008.

25
26 STEVE POIZNER
Insurance Commissioner

27 “ss”
28 By: JERRY L. WHITFIELD
Assistant Chief Counsel